

(c) The HUBZone SBC must certify that it will ensure that it will comply with certain contract performance requirements in connection with contracts awarded to it as a qualified HUBZone SBC, as set forth in § 126.700.

§ 126.201 For this purpose, who does SBA consider to own a HUBZone SBC?

An owner of a HUBZone SBC is a person who owns any legal or equitable interest in such HUBZone SBC. More specifically:

(a) *Corporations.* SBA will consider any person who owns stock, whether voting or non-voting, to be an owner. SBA will consider options to purchase stock to have been exercised. SBA will consider the right to convert debentures into voting stock to have been exercised.

(b) *Partnerships.* SBA will consider a partner, whether general or limited, to be an owner if that partner owns an equitable interest in the partnership.

(c) *Sole proprietorships.* The proprietor is the owner.

(d) *Limited liability companies.* SBA will consider each member to be an owner of a limited liability company.

Example 1: All stock of a corporation is owned by U.S. citizens. The president of the corporation, a non-U.S. citizen, owns no stock in the corporation, but owns options to purchase stock in the corporation. SBA will consider the option exercised, and the corporation is not eligible to be a qualified HUBZone SBC.

Example 2: A partnership is owned 99.9 percent by persons who are U.S. citizens, and 0.1 percent by someone who is not. The partnership is not eligible because it is not 100 percent owned by U.S. citizens.

§ 126.202 Who does SBA consider to control a HUBZone SBC?

Control means both the day-to-day management and long-term decision-making authority for the HUBZone SBC. Many persons share control of a concern, including each of those occupying the following positions: officer, director, general partner, managing partner, and manager. In addition, key employees who possess critical licenses, expertise or responsibilities re-

lated to the concern's primary economic activity may share significant control of the concern. SBA will consider the control potential of such key employees on a case by case basis.

§ 126.203 What size standards apply to HUBZone SBCs?

(a) *At time of application for certification.* A HUBZone SBC must meet SBA's size standards for its primary industry classification as defined in § 121.201 of this title. If SBA is unable to verify that a concern is small, SBA may deny the concern status as a qualified HUBZone SBC, or SBA may request a formal size determination from the responsible Government Contracting Area Director or designee.

(b) *At time of contract offer.* A HUBZone SBC must be small within the size standard corresponding to the SIC code assigned to the contract.

§ 126.204 May a qualified HUBZone SBC have affiliates?

Yes. A qualified HUBZone SBC may have affiliates so long as the affiliates are also qualified HUBZone SBCs, 8(a) participants, or WOBs.

§ 126.205 May WOBs, 8(a) participants or SDBs be qualified HUBZone SBCs?

Yes. WOBs, 8(a) participants, and SDBs can qualify as HUBZone SBCs if they meet the additional requirements in this part.

§ 126.206 May non-manufacturers be qualified HUBZone SBCs?

Yes. Non-manufacturers (referred to in the HUBZone Act of 1997 as "regular dealers") may be certified as qualified HUBZone SBCs if they meet all the requirements set forth in § 126.200 and they can demonstrate that they can provide the product or products manufactured by qualified HUBZone SBCs. "Non-manufacturer" is defined in § 121.406(b)(1) of this title.

§ 126.207 May a qualified HUBZone SBC have offices or facilities in another HUBZone or outside a HUBZone?

Yes. A qualified HUBZone SBC may have offices or facilities in another HUBZone or even outside a HUBZone and still be a qualified HUBZone SBC.